1947. **File No.** O. Societies Registration 149

Legal Deptt.

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Subject:— Opinions under the Societies Registration Act 1860

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O. Societies Registration 149

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C O N T E N T S.

Legal Department File No. O. Societies Regn.

Sr. No.	R.I./O.No.	Subject
1)	8710 3-8-49	The Societies Registration Act, 1860 - Sec. 12 - Mrs. Smart Victory Hospital Fund, Godhra - Assignment to Govt. whether Govt. can accept the management.
2)	14385 12-12-49	Section 13 -- Dissolution of a Society on Baroda State after merger - whether consent of Govt. is necessary.

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Office of the R.L. A.

Mrs. Smart Victory Hospital Fund, Godhra. Assignment to Government.

The Societies Registration Act 1860. Sec. 12.

On the 16th July 1945 the Mrs. Smart Victory Hospital Fund, Godhra, resolved that the interest from the securities vesting in the Mrs. Smart Victory Hospital should be assigned to Government for a period of 10 years in the first instance and in return Government should undertake the entire responsibility for the management and administration of the Hospital and at the end of this period it would be open to the Governing Body to revoke or continue this arrangement. In pursuance of this resolution, Government was requested to take over the management of the Hospital subject to the condition of payment of the interest on the securities vesting in the Mrs. Smart Victory Hospital. The R.L.A. was consulted and he opined (3283 d. 3-4-1947) that, as the proposal of the Governing Body would amount to abridging of the original purpose of the Fund within the meaning of section 12 of the Societies Registration Act, the Governing Body should submit the same to the general body of members and obtain their consent at a special meeting as provided in that section. Accordingly, a meeting of all the members was called by the Collector and President, Mrs. Smart Victory Hospital Fund, by publishing a notice in the Sandesh and Gujarat Samachar and the meeting resolved that the management of the Mrs. Smart Victory Hospital Fund, Godhra, should be handed over to Government provided the objects for which the Fund is established as detailed in the Memorandum of Association are maintained. In forwarding this resolution, the Collector and President of the Fund observes that there is nothing like a General Body of members and, as such, a meeting of

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all the members was convened. The Surgeon General with the Government of Bombay considers that that the resolution apparently satisfies the requirements mentioned by the R.L.A. and the R.L.A. is requested to advise whether the proceedings of the meeting are in order and in accordance with the provisions of the Societies Registration Act and whether further action can now be taken by Government on the resolution.

At the outset it may be observed that it was never the intention of the Governing Body of the Mrs. Smart Victory Hospital Fund to hand over the management of the Fund to Government. What was resolved in 1945 was that the management of the Hospital should be handed over to Government subject to the condition of payment of the interest on the securities of the Fund. Consequently, the resolution as passed by the members of the Mrs. Smart Victory Hospital Fund is inconsistent. The resolution which should be passed must be to the effect that in modification of the objects and purpose of the Mrs. Smart Victory Hospital Fund, the general body resolves that the management of the Hospital should be handed over to Government ~~as~~ subject to the condition of payment of interest on the securities of the Fund and this management by Government should be for a period of 10 years at the end of which the Mrs.

Smart Victory Hospital Fund should have the liberty either to continue or revoke this arrangement.

It is not correct to say that there is no General Body of members. All the members of the Mrs. Smart Victory Hospital Fund constitute the general body of members. Under Section 12, the aforesaid proposition should be submitted to the members of the Fund in a written or printed report and a special meeting for consideration thereof should be convened; and as provided in the latter part of section 12 that proposition should be first carried out at the first meeting and again confirmed by the votes of three-fifths of the members present at a second special meeting convened by the Governing Body at an interval of one month after the former meeting. This procedure has not been followed in the present case. A notice given in newspapers of the meeting would not be a sufficient compliance with the provisions of section 12. The second special meeting at an interval of one month after the former meeting was not at all called nor was the original proposition confirmed by any such body. Consequently, the procedure followed in the present case is not in conformity with section 12 and as such the proposal is not valid.

As pointed out by the R.L.A. in his last opinion No. 3283, dated the 3rd April 1947, steps should also be taken to amend the Rule if the post of the Assistant Collector at Godhra has been abolished. Mr. Shah, District Deputy Collector, appears to have been still continued as Honorary Secretary of the Fund. Not being the Assistant Collector, his continuance as Secretary of the Fund without the amendment of the Rule would not be valid.

After following the procedure as indicated above, the Mrs. Smart Victory Hospital Fund should pass a proposal about handing over the management of the Hospital subject to the condition of payment of interest on the securities of the Fund and thereafter Government may consider the question of accepting the management.

Sd/- (P.M.L.)

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Remembrancer of Legal Affairs.

U.R. to H. &(with that dept. File No. 3778/33/B L.G.D. No. 8710 dated the 3rd August 1949.

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Office of the R.L.A.

Dissolution of a Society in Baroda State after merger Consent of Government.

Societies Registration Act, 1860 - Section 13.

A fund known as the "Diamond Jubilee People's Village Uplift Fund" came into existence in the Baroda State in 1936 on the occasion of the Diamond Jubilee of the reign of the late Maharaja Sir Sayajirao III . The capital of the Fund amounts to Rs. 7,79,000 which is invested in Government securities. The Committee appointed under rule 6 of the Rules for the management of the Fund is registered as a benevolent society under the Baroda Benevolent Societies Act. The Committee has unanimously passed two resolutions. According to the first, the Committee has decided to dissolve itself from 31st July 1949 and has asked for Government's approval under Section 15(5) of the Baroda Benevolent Societies Act. By the second resolution it has decided that if the first resolution is approved, the balance of the fund should be distributed among the District Local Boards of the Baroda State (on population basis) for utilisation towards village Uplift work. As Bombay Government has now replaced Baroda Government, the Special Commissioner has submitted the two resolutions for the approval of Government. R.D. is of the view that the provisions of the Societies Registration Act, 1860 would apply in this case and under the second proviso to section 13 consent of Government would be necessary for dissolution of the Society. The R.L.A. is requested to advise in the matter

2. By para. 3 of the Baroda State (Application of Laws) Order, 1949, the Societies Registration Act, 1860 was extended to the Baroda State with effect from the 30th July 1949. By para. 5(i)(c) all enactments in force in the Baroda State and corresponding to the enactments in force in the Province of Bombay and extended to the Baroda State under para. 3 are repealed. The Baroda Benevolent Societies Act, 1936 which is corresponding to

the Societies Registration Act, 1860 must therefore be deemed to have been repealed. The Committee appointed under rule 6 of the Rules of management of the Fund has requested Government to give its consent under section 15 of the Baroda Benevolent Societies Act for dissolution of the Society. This consent can now be given by the Bombay Government under the second proviso to section 13 of the Societies Registration Act, 1860. F.D. which deals with this subject will have to issue orders in this case (please see item 18 of the subjects allotted to F.D. under the Rules of Business).

Sd/- (P.M.L).

Remembrancer of Legal Affairs.

U.R. to R.D., No. 14385 , dated the 12th December 1949.

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